

Cast your votes.

Has every delegate voted? Does any delegate desire to change his vote?

*(There was no response.)*

The Clerk will record the vote.

There being 17 votes in the affirmative and 88 in the negative, the motion is lost. The amendment is rejected.

Delegate Gallagher, do you desire to offer your Amendment AB?

DELEGATE GALLAGHER: Mr. Chairman, I do and I will be very brief about it.

THE CHAIRMAN: Very well.

The pages will distribute Amendment AB. This will be Amendment 21.

Delegate Gallagher, while the amendment is being read, would you consider whether in line 9 the word "and" ought to be "or"?

The Clerk will read the amendment.

READING CLERK: Amendment No. 21 to Committee Recommendation R&P-2, by Delegate Gallagher:

On page 4 following line 19 of section 13, Imprisonment for Debt, add the following new section:

"Section 14. Legislative and Executive Investigations

"No person's right to fair and just treatment in the course of legislative and executive investigations shall be infringed."

THE CHAIRMAN: The amendment has been proposed by Delegate Gallagher.

Is there a second?

*(Whereupon, the amendment was duly seconded.)*

THE CHAIRMAN: The amendment having been seconded, the Chair recognizes Delegate Gallagher.

DELEGATE GALLAGHER: Mr. Chairman, ladies and gentlemen:

First I would agree that the word "and" on line 9 ought to read "or", so it would be "legislative or executive", and I request permission of the Committee of the Whole to make that amendment.

THE CHAIRMAN: The amendment is modified to change the word "and" to "or" in line 9, there being no objection.

Delegate Gallagher.

DELEGATE GALLAGHER: Mr. Chairman, ladies and gentlemen of the Committee: This particular amendment is offered and it is word for word from a section that was contained in the report of the Constitutional Convention Commission. It was omitted from the Legislative Committee's report because it also applied to the executive branch.

An examination of the law would indicate that even though our constitution and the federal Constitution would guarantee due process to witnesses appearing before legislative bodies and their committees, and executive agencies as well, that nevertheless the scope of due process would not extend to a genuine fair treatment of these witnesses. And as you will see from the memorandum which is submitted and marked AB, in a leading case, *Hannah v. Marr*, decided by the Supreme Court in 1960, it was specifically held that the requirements of due process were satisfied even when subpoenaed witnesses were not given an opportunity to know who complained against them, what the nature of the complaint was, when they had no opportunity afforded for confrontation and cross examination of the complaining witnesses.

It would seem to me that one thing that we want to prohibit is the inclination of legislative bodies to go on fishing expeditions. It would seem to me that in granting the powers to committees to subpoena witnesses that we would want to guarantee that a legislative committee would not want to hold someone up to scorn and to have them punished simply because what they believed was out of step with what was popular.

Consequently, I believe it incumbent upon this Convention to see to it that we have a constitutional provision which requires fair and just treatment. How this will be implemented, of course, will fall into the hands of the General Assembly itself, or to the executive bodies of the State. But it seems to me that we do not go far enough when we simply provide for due process. We must take the further step and guarantee that witnesses who are subpoenaed against their will on many occasions will not be the objects of ill treatment.

Consequently, I would urge the adoption of this amendment.

THE CHAIRMAN: For what purpose does Delegate Case rise?

DELEGATE CASE: Mr. Chairman, I would like to ask the sponsor of this amendment two questions, if I may.